

**International Commercial Arbitration Court
at the Ukrainian Chamber of Commerce and Industry**

**REPORT
of the activities for 2016**

In 2016 the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry (hereinafter – the ICAC at the Ukrainian CCI) besides its main jurisdictional activities on consideration of foreign economic disputes had held a range of activities set on improvement of organization of arbitral proceedings, creation of more favorable conditions for arbitrators as well as parties to the disputes: material and technical resource base had been reinforced (three hearing rooms were equipped with technical facilities that allow to conduct hearings online, and audio recording, negotiation room was prepared and archival repository premises were significantly expanded), further work on preparation of new versions of the Rules of the ICAC and MAC at the Ukrainian CCI and the Schedule of Arbitration Fees and Costs had been undertaken.

On 18 November 2016 the General meeting of the ICAC's and MAC's (Maritime Arbitration Commission at the Ukrainian CCI) arbitrators was held. The General meeting was attended by more than 50 arbitrators both foreign ones (from Finland, Poland and Moldova) and Ukrainian ones (from Kiev, Kharkov and Khmelnytskyi). One of the key issues on agenda was the discussion of drafts of new Rules of the ICAC and MAC at the Ukrainian CCI, final versions of which after the consideration of all proposals passed by arbitrators, will be brought up for approval of the ICAC's and MAC's Presidiums. The President of ICAC and MAC at the Ukrainian CCI announced within the frames of the ICAC's at the Ukrainian CCI 25-th anniversary celebration the holding of International Arbitration Readings in memory of Academician Igor Pobirchenko, preparation of issuing of the ICAC's awards covering the period from 2011 till 2016, collection of arbitrators articles, special edition of the legal journal "Law of Ukraine" and a range of other events noticeable for arbitral and business community.

Due to increase of cases registered by the ICAC at the Ukrainian CCI over the last years and the necessity of further improvement of the ICAC at the Ukrainian CCI competitiveness by the Decision of the ICAC Presidium on 16 March 2016 the Recommendatory List of Arbitrators was updated by 35 new arbitrators from Ukraine and a number of foreign countries: Austria, Belarus, Bulgaria, Belgium, United Kingdom, Norway, Russian Federation, France, Canada, Latvia, Lithuania, Estonia, Rumania, India and Iran. There are 112 persons in the Recommendatory List of arbitrators, of which 50% are foreign experts.

In 2016 the ICAC at the Ukrainian CCI continued its work on popularization of its activities in Ukraine as well as abroad, on generalization of innovations in international arbitration practice.

On 22 April 2016 the delegation of the ICAC at the Ukrainian CCI composed of Mykola Selivon, President of the ICAC at the Ukrainian CCI, Andrii Klimchyk, arbitrator of the ICAC at the Ukrainian CCI and Dariana Denysova, deputy of executive secretary of the MAC at the Ukrainian CCI participated in international scientific-practical conference «Arbitration and Mediation – generally recognized or selected institutions?» in Nowy Tomyśl (Poland).

Besides, the delegation of the ICAC at the Ukrainian CCI composed of Mykola Selivon, President of the ICAC at the Ukrainian CCI, and Olga Kostyshina, adviser of President of the ICAC at the Ukrainian CCI participated as observer in forty-ninth session of the United Nations Commission on International Trade Law which was held from 27 June to 15 July 2016 in New-York.

UNCITRAL Notes on Organizing Arbitral Proceedings were adopted during the work of forty-nine session of the United Nations Commission on International Trade Law. The delegation of the ICAC at the Ukrainian CCI also contributed to elaboration of UNCITRAL Notes on Organizing Arbitral Proceedings. This key note for international arbitration instrument reflects all new trends in current arbitration practice and also contains practical guidelines, useful not only for ad-hoc arbitration but also for permanent arbitration institution, legal practitioners and representatives of scientific society.

President of the ICAC at the Ukrainian CCI Mykola Selivon conducted working meetings with the Secretary of UNCITRAL Renaud Sorieul, delegates and representatives of arbitral institutions of China, Turkey, Russian Federation and Switzerland. In particular, preliminary agreement concerning participation of UNCITRAL representatives in international conference which is planned to be held in the nearest future and to be dedicated to foreign relations development of Ukraine was reached with Mr. Renaud Sorieul.

Besides, President of the ICAC at the Ukrainian CCI Mykola Selivon participated in the work of the Second National Export Forum on Export Support, which was held at the Ukrainian Chamber of Commerce and Industry on 27-28 April 2016, and delivered a report on it: «Arbitration is an effective remedy to protect violated right in foreign economic relations».

Apart from it, President of the ICAC at the Ukrainian CCI Mykola Selivon took part in the IV International Judicial and Legal Forum: «Judicial Reform: status and directions of development» (17-18 March 2016, Kiev), making a presentation on the topic: «Development of International Commercial Arbitration as an Essential Component for the Success of Judicial Reform».

On 2 June, 2016 President of the ICAC at the Ukrainian CCI Mykola Selivon participated in the scientific and practical conference «Judicial defense of the legitimate rights and interests of participants in economic relations in Ukraine: theory, jurisprudence and areas for improvement», which was held by the Supreme Economic Court of Ukraine in Kiev.

On 23 September, 2016 Tetiana Zakharchenko, Vice President of the ICAC and MAC at the Ukrainian CCI, took part in the Forum on Dispute Resolution in Eastern Europe, which was held in Minsk, the Republic of Belarus. She took part in the plenary session «Modern Arbitration Courts: the patient is more alive than dead».

On 3 November, 2016 President of the ICAC at the Ukrainian CCI Mykola Selivon took part in the annual international conference «Kiev Arbitration Days 2016: Think Big!», and on 24-25 November 2016 - in the international conference «Judicial Law-making in the Mechanism for Ensuring the Rule of Law within the framework of Justice Reform».

President of the ICAC at the Ukrainian CCI Mykola Selivon prepared an legal opinion to the Verkhovna Rada (the Parliament) Committee on Legal Policy and Justice on Draft Law No. 4351 «On Amendments to Certain Legislative Acts of Ukraine on judicial control and support of the international commercial arbitration».

On the instructions of Alexei Filatov, the Coordinator of the Council on Judicial Reform under the President of Ukraine, legal opinions and proposals to the drafts of elaborated Civil Procedural and Economic Procedural Codes of Ukraine concerning the regulation improvement of interaction between state courts and international commercial arbitration courts, third-party tribunals are prepared.

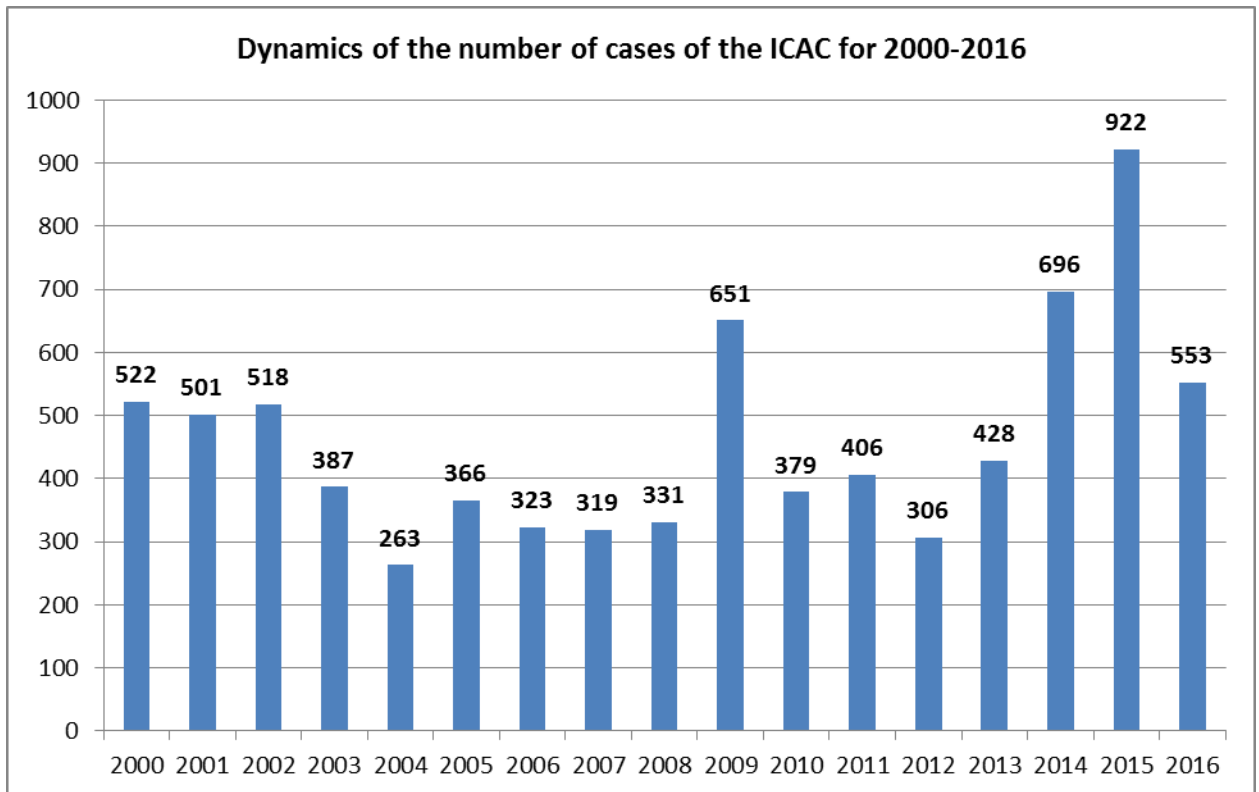
For the Constitutional Court of Ukraine and upon the constitutional appeal of Trade House «Armature of Ukraine» LLC a conclusion about the official interpretation of clause 5 of part one of Article 80 of the Economic Procedural Code of Ukraine was drawn up.

In addition, periodicals constantly publish materials on the activities of the ICAC at the Ukrainian CCI, highlighting the most complicated issues of arbitration practice. In particular, «Law of Ukraine» legal journal (No. 7, 2016) published an article of the President of the ICAC at the Ukrainian CCI Mykola Selivon «The development of international commercial arbitration as an essential component of the success of judicial reform in Ukraine» and «The Legal Practice» newspaper (No. 15, April 12, 2016) published the article of Mykola Selivon «Improper conduct» including his interview pertaining the activities of international commercial arbitration in Ukraine (No. 43, 25 October, 2016).

§ 1. Number of cases registered by the ICAC at the UCCI in 2016

During the period from 1 January till 31 December 2016 the ICAC at the UCCI registered 553 cases.

The dynamics of the number of cases registered in the ICAC at the UCCI from the year 2000 till 2016 is as follows:



§ 2. Consideration of cases in 2016

In 2016 the ICAC at the UCCI considered and rendered awards in 472 cases of which 339 cases (72%) were considered by the Arbitral Tribunal composed of a sole arbitrator and 133 cases (28%) - by the Arbitral Tribunal composed of three arbitrators.

At the same time, in 385 cases, the claim was granted in full, in 51 cases – partially upheld and in 8 cases the claim was dismissed. In 25 cases in respect of debt recovery, the proceedings in the case were terminated (in connection with the voluntary repayment of debt by the debtor after the claimant's recourse to the ICAC at the UCCI with the claim). There were three cases in regard of which composition of the Arbitral Tribunal made arbitral awards on agreed terms (in connection with the conclusion of an amicable agreement by the parties).

There were eleven cases in regard of which composition of the Arbitral Tribunal made orders for the termination of the arbitral proceedings (in connection with waiving of the Claimant of his demands).

From the total amount of cases considered - (472 cases), 64 arbitral proceedings were conducted in Ukrainian, 3 - in English, 2 - both in English and in Russian, 1 – in Ukrainian and in Russian, and the remaining ones – in Russian.

In 2016 the consideration of cases of the ICAC at the UCCI has been conducted with the participation of foreign arbitrators from Kazakhstan, Moldova, Finland, Russian Federation and USA.

§ 3. Origin of the parties

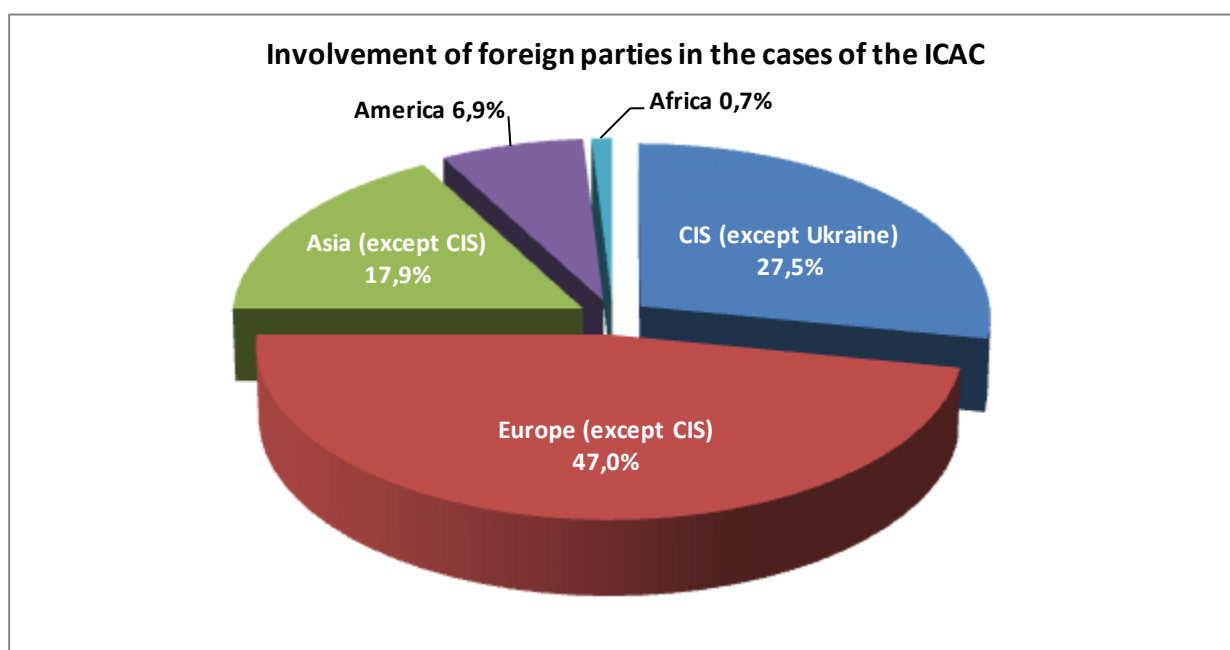
During the course of 2016 the Parties to the cases registered by the ICAC at the UCCI (553 cases), were represented by 57 countries, including 46 from far-abroad countries, 10 CIS (Commonwealth of Independent States) countries and Ukraine.

The range of far-abroad nationalities of the parties bringing their disputes to the ICAC at the UCCI is listed below:

Switzerland - 71 cases, United Kingdom – 48 cases, United Arab Emirates – 41 cases, Czech Republic – 34 cases, Germany – 31 cases, Cyprus and Poland – 29 cases from each country, British Virgin Islands - 24 cases, Estonia – 13 cases, China – 10 cases, USA – 8 cases, Italy, Lithuania and Turkey – 6 cases from each country, Georgia – 5 cases, Ireland – 3 cases, France, India, Latvia, Macedonia, Panama, Seychelles, Slovakia, Spain – 2 cases from each country, Austria, Belgium, Brazil, Canada, Colombia, Commonwealth of Dominican Republic, Egypt, Finland, Greece, Guatemala, Hungary, Israel, Libyan Arab Jamahiriya, Liechtenstein, Mongolia, Pakistan, Romania, Saudi Arabia, Senegal, Serbia, Singapore, Sweden – 1 case from each country.

The following CIS countries appeared as the Parties to the cases:

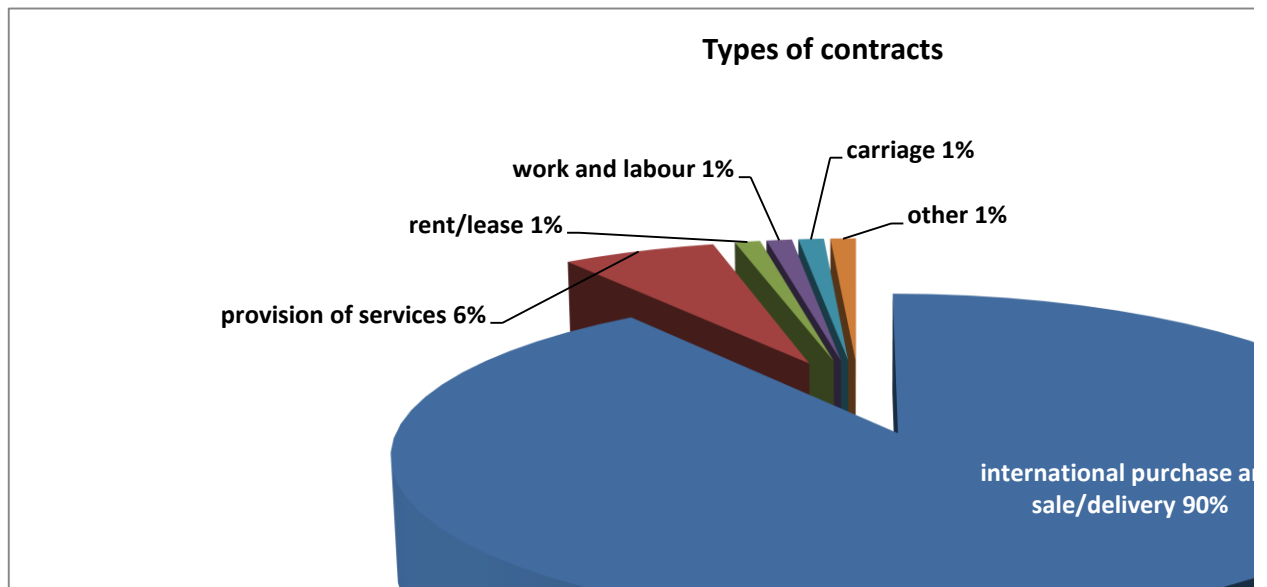
The Russian Federation - 71 cases, Belarus - 34 cases, Kazakhstan - 21 cases, Turkmenistan - 8 cases, Moldova - 6 cases, Azerbaijan and Uzbekistan - 4 cases from each country, Armenia - 2 cases, Kyrgyzstan and Tajikistan - 1 case from each country.



§ 4 Nature of contracts

The majority of cases considered by the ICAC at the UCCI in 2016 as in the previous years concerned international purchase and sale (delivery) of goods and the breach of contractual obligations as to the opportune payment or delivery of goods. A significant number of disputes relates to the quality of delivered goods, provision of services, including banking services. To a lesser extent, submitted disputes deal with construction contracts, guarantee, loan, transport expedition.

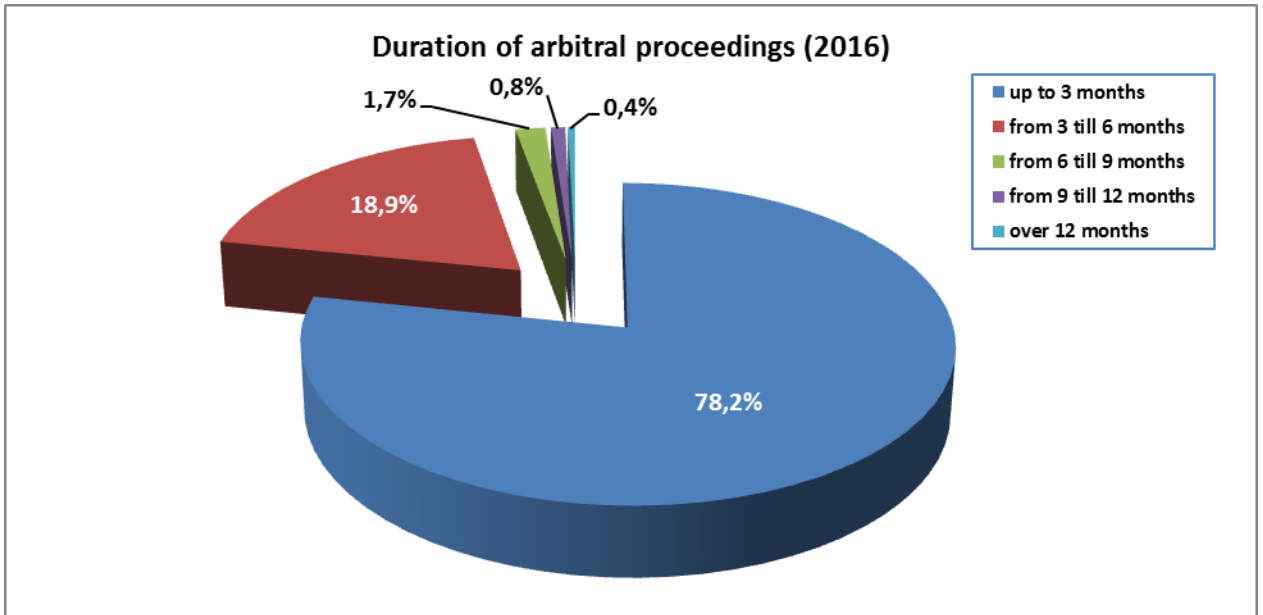
From the total amount of cases registered by the ICAC at the UCCI in 2016 (472 cases), an overwhelming majority - 426 cases (i.e. almost 90%) related to the contracts of international purchase and sale/delivery of goods, 27 cases related to the contracts of provision of services, 3 cases – to contracts of tenancy/financial lease, 3 cases – to contracts of transport expedition, 5 cases - to contracting contracts, 2 cases – to contracts of guarantee, 1 case - to commission contract, 1 case – to storage contract, 1 case – to loan agreement, 1 case – to trust agreement, etc.



§ 5. Duration of arbitral proceedings

In 2016 the ICAC at the UCCI considered and rendered awards in 472 cases. The duration of considered cases (from the date of initiation of the arbitral proceedings till rendering of the award in the case) was as follows:

- up to 3 months - 368 cases;
- from 3 till 6 months - 89 cases;
- from 6 till 9 months – 9 cases;
- from 9 till 12 months - 4 cases;
- over 12 months - 2 cases.



**MARITIME ARBITRATION COMMISSION
AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY
ACTIVITY 2016**

In 2016 there were 12 cases registered by the MAC at the Ukrainian CCI. Among them 8 cases have been considered, 1 case has been terminated by the order of the President of the MAC at the Ukrainian CCI, 3 cases are scheduled for the oral hearing.

Foreign respondents in the cases registered in 2016 were parties including: Belize - 3 cases, Cyprus - 3 cases, People's Republic of China – 2 cases, Panama, Russian Federation, Denmark - 1 case each.

There was one case to which Respondent was the Ukrainian resident.

Out of 12 cases registered by the MAC at the Ukrainian CCI in 2016, the amount of claim in 3 cases was up to US Dollar 10,000, in 4 cases from US Dollar 10,001 to US Dollar 50,000; in 3 cases from US Dollar 50,001 to US Dollar 100,000; in 5 cases - from US Dollar 100,001 to US Dollar 200,000.

Claims registered by the MAC in 2016 arise out of relationships concerning the following matters:

- affreightment - 5 cases;
- repairs of seagoing vessels - 5 cases;
- services - 2 cases.

Mykola SELIVON
President of the ICAC and MAC at the UCCI
28 February 2017